

25 JUN 2007



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In re Application of	:	
KRAH et al.	:	DECISION ON
Application No.: 10/581,929	:	
PCT No.: PCT/EP2004/012649	:	PAPERS
Int. Filing Date: 09 November 2004	:	
Priority Date: 24 November 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: None	:	
For: DEVICE AND METHOD FOR	:	
MANUFACTURING WRAPPED TUBES	:	

This is a decision on the applicants' renewed submission under 37 CFR 1.42 filed 10 April 2007.

**BACKGROUND**

On 09 November 2004, applicants filed international application PCT/EP2004/012649 which designated the U.S. and claimed a priority date of 24 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 May 2006.

On 07 June 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, an English translation of the international application, and a petition under 37 CFR 1.137(b) to revive the application.

On 14 August 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b).

On 30 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 November 2006, applicants filed a submission which was accompanied by, *inter alia*, two declarations of the inventors. The indication in the second declaration that inventor Adolf Berger is deceased was treated as a request for status under 37 CFR 1.42.

On 27 December 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 08 November 2006 was missing the signature of Adolf Berger.

On 08 January 2007, a decision was mailed vacating the NOTIFICATION OF DEFECTIVE RESPONSE mailed 27 December 2006 and refusing applicants' request under 37 CFR 1.42. Regarding the request under 37 CFR 1.42, it was noted that both the declaration signed by Karl-Heinz Krah and the declaration signed by Kathe Berger failed to comply with 37 CFR 1.497(a)-(b).

On 10 April 2007, applicants submitted the instant renewed submission under 37 CFR 1.42, which was accompanied by a petition/fee for a one-month extension of time, a declaration of inventors signed by Karl-Heinz Krah, and a declaration of inventors signed by Kathe Berger.

### **DISCUSSION**

Neither the declaration of inventors signed by Karl-Heinz Krah nor the declaration of inventors signed by Kathe Berger are sufficient because both contain non-initialed alterations. 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I.

### **CONCLUSION**

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

A proper response must be filed within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the decision mailed 08 January 2007, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the decision mailed 08 January 2007 may be extended under 37 CFR 1.136(a).

Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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